

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

DEANTHONY M. TREADWELL,	:	
	:	
	:	
Plaintiff,	:	
	:	
	:	
v.	:	No. 5:17-cv-00397-MTT-CHW
	:	
	:	
JOHN DOE,	:	
	:	
	:	
Defendant.	:	
	:	
	:	

ORDER OF DISMISSAL

Plaintiff Deanthony M. Treadwell, an inmate in the Georgia Diagnostic and Classification Prison in Jackson, Georgia, filed a document containing a number of allegations relating to his incarceration. Compl., ECF No. 1. Plaintiff initially filed his action in the Northern District of Georgia, where it was docketed as a 42 U.S.C. § 1983 complaint and subsequently transferred to the Middle District of Georgia. Order, Oct. 18, 2017, ECF No. 2.

Upon a preliminary review of Plaintiff's complaint, it was not entirely clear whether Plaintiff intended to litigate claims for alleged civil rights violations under 42 U.S.C. § 1983 or to challenge the fact or duration of his conviction and sentence through a petition for a writ of habeas corpus. Therefore, Plaintiff was ordered to recast his complaint on either a § 1983 complaint form or the form for a 28 U.S.C. § 2254 habeas corpus petition. Order 1-2, Oct. 26, 2017, ECF No. 6. Additionally, Plaintiff was ordered to either submit a filing fee or move for leave to proceed in this action *in forma pauperis*. *Id.* at 2.

Plaintiff was given twenty-one days to comply and was informed that his failure to do so would result in the dismissal of his complaint. *Id.* at 2-3.

Thereafter, Plaintiff failed to file a recast complaint or habeas petition. He also neither paid the filing fee nor submitted a motion to proceed *in forma pauperis*. Thus, on November 30, 2017, Plaintiff was ordered to show cause why this case should not be dismissed for failure to comply with this Court's Order directing him to recast his complaint or habeas petition and either pay the filing fee or move for leave to proceed *in forma pauperis*. Order to Show Cause, Nov. 30, 2017, ECF No. 7. Plaintiff was given twenty-one days to respond to the Order to Show Cause and was again cautioned that his failure to do so would result in the dismissal of this action. *Id.* To date, Plaintiff has failed to respond to the Order to Show Cause.

Thus, because Plaintiff has failed to respond to the Court's orders or otherwise prosecute his case, it is hereby **ORDERED** that Plaintiff's Complaint be **DISMISSED WITHOUT PREJUDICE**. See Fed. R. Civ. P. 41(b); *Brown v. Tallahassee Police Dep't*, 205 F. App'x 802, 802 (11th Cir. 2006) (per curiam) ("The court may dismiss an action *sua sponte* under Rule 41(b) for failure to prosecute or failure to obey a court order.") (citing Fed. R. Civ. P. 41(b) and *Lopez v. Aransas Cty. Indep. Sch. Dist.*, 570 F.2d 541, 544 (5th Cir. 1978)).

SO ORDERED, this 8th day of January, 2018.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT